

99TH CONGRESS
1ST SESSION

H. R. 158

C/RTD

To amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1985

Ms. OAKAR introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Social Security Modern-
- 4 ization Act".

1 SEC. 2. Title II of the Social Security Act is amended
2 by adding at the end thereof the following new section:

3 "SHARING OF EARNINGS BY MARRIED COUPLES

4 "SEC. 234. (a) This section shall not apply with respect
5 to any individual or spouse for any month, and any benefits
6 payable under this title for any month on the basis of the
7 wages and self-employment income of either shall be deter-
8 mined as though this section had not been enacted, if—

9 "(1) the total of the combined benefits to which
10 such individual and spouse would be entitled for such
11 month under this title as a result of the application of
12 this section is less than the total of the combined bene-
13 fits to which they would be so entitled without regard
14 to this section, or

15 "(2) such individual is deceased and the amount of
16 the widow's, widower's, or mother's or father's insur-
17 ance benefit to which such spouse would be entitled for
18 such month (on the basis of such individual's wages
19 and self-employment income) as a result of the applica-
20 tion of this section is less than the amount of the
21 widow's, widower's, or mother's or father's insurance
22 benefit to which such spouse would be so entitled with-
23 out regard to this section.

24 "(b)(1) The combined earnings of an individual and his
25 or her spouse, to the extent that such earnings are attributa-

1 ble to the period of their marriage (as determined under para-
2 graph (2)), shall be divided equally between them and shared
3 in accordance with this section for purposes of determining
4 their eligibility for old-age or disability insurance benefits and
5 the amount of the old-age or disability insurance benefits to
6 which each of them is or may become separately entitled.

7 “(2) For purposes of this section with respect to any two
8 individuals who are married to each other, the ‘period of their
9 marriage’ is the period—

10 “(A) beginning with the first day of the calendar
11 year in which their marriage occurred, and

12 “(B) ending with the last day of the calendar year
13 preceding the earliest calendar year in which one of
14 them dies, they are divorced, or one of them files ap-
15 plication for old-age or disability insurance benefits,
16 whichever first occurs;

17 except that (i) no such period shall begin for any two individ-
18 uals whose marriage to each other occurs after one of them
19 has filed application for old-age insurance benefits, (ii) no
20 such period shall begin for any two individuals whose mar-
21 riage to each other occurs after one of them has filed applica-
22 tion for disability insurance benefits unless his or her period
23 of disability (and entitlement to such benefits) has theretofore
24 ended or, if it has not theretofore ended, until such period
25 (and such entitlement) ends, and (iii) such period shall include

1 the 'earliest calendar year' referred to in subparagraph (B)
2 for purposes of recomputations for that year under section
3 215(f)(2), in any case where one of them dies or they are
4 divorced, unless the survivor (where one of them dies) or
5 either of them (where they are divorced) is remarried later in
6 the same year.

7 “(c)(1) Except to the extent otherwise provided in sub-
8 sections (a), (d), (e), and (f), if two individuals have been mar-
9 ried to each other they shall each be credited for all of the
10 purposes of this title with wages and self-employment
11 income, for each calendar year for which either of them is
12 credited with any wages and self-employment income without
13 regard to this section during the period of their marriage, in
14 an amount equal to (A) 50 percent of the combined total of
15 the wages and self-employment income otherwise credited to
16 both of them for that year if (at the close of the month for
17 which the benefit determinations involved are being made)
18 they are both still living, or (B) 100 percent of such combined
19 total, up to but not exceeding the maximum amount that may
20 be counted for that year without exceeding the ceiling im-
21 posed for that year under section 215(e), if (at the close of
22 such month) one of them has died.

23 “(2) Nothing in this section shall have any effect upon
24 the crediting of wages and self-employment income to any
25 individual for any calendar year not included in the period of

1 such individual's marriage; but to the extent that wages and
2 self-employment income are credited pursuant to this section
3 the other provisions of this title specifying the manner in
4 which wages and self-employment income are to be credited
5 shall (to the extent inconsistent with this section) be
6 inapplicable.

7 “(3) As used in this section, the term ‘spouse’ includes a
8 divorced spouse, a surviving spouse, a surviving divorced
9 wife, and a surviving divorced husband except where the con-
10 text requires otherwise.

11 “(d) Subsections (b) and (c) shall not apply with respect
12 to the crediting of wages and self-employment income for any
13 calendar year, in the case of any individual and his or her
14 spouse, if (1) as a result of the application of such subsections
15 with respect to that year either of them would cease to be a
16 fully insured individual (as defined in section 214(a)), or (2)
17 one of them is applying for disability insurance benefits (or for
18 the establishment of a period of disability) and as a result of
19 the application of such subsections with respect to that year
20 would cease to be insured for such benefits under section
21 223(c)(1) (or for such a period under section 216(i)(3)).

22 “(e) Subsections (b) and (c) shall not apply for purposes
23 of determining the amount of the benefit payable to any indi-
24 vidual for any month if (1) the total amount of the wages and
25 self-employment income credited to such individual for the

1 period of his or her marriage, as determined without regard
2 to this section, is higher than the total amount of the wages
3 and self-employment income credited to such individual's
4 spouse for that period, as so determined, and (2) such individ-
5 ual's spouse (taking subsections (b) and (c) into account) has
6 not filed application for old-age or disability insurance bene-
7 fits by the close of such month.

8 “(f) Notwithstanding any of the preceding provisions of
9 this section—

10 “(1) benefits payable under subsection (d) or (h) of
11 section 202 on the basis of the wages and self-employ-
12 ment income of any individual, and benefits payable
13 under subsection (b), (c), (e), (f), or (g) of such section
14 202 (on the basis of such wages and self-employment
15 income) to any person other than a spouse who has
16 shared in or been credited with a part of such individ-
17 ual's earnings under subsections (b) and (c) of this sec-
18 tion, shall be determined as though this section had not
19 been enacted if (A) the application of this section has
20 changed such individual's primary insurance amount
21 from what it would otherwise have been, and (B) the
22 crediting of wages and self-employment income to such
23 individual and his or her spouse without regard to this
24 section would increase the amount of such benefits; and

1 “(2) in the application of section 203(a) (relating
2 to maximum family benefits) with respect to benefits
3 payable on the basis of the wages and self-employment
4 income of any individual, where all or any part of the
5 wages and self-employment income of such individual
6 and his or her spouse was credited to them in accord-
7 ance with this section, the primary insurance amount
8 of such individual (and the crediting of his or her
9 wages and self-employment income) shall be deter-
10 mined in accordance with this section but the benefits
11 payable to any other person on the basis of the wages
12 and self-employment income of such individual shall be
13 determined as though this section had not been enacted
14 and as though such person had made application for
15 any benefit or benefits to which he or she would (upon
16 such application) be entitled.

17 “(g) Notwithstanding any other provision of this title, no
18 wife’s, husband’s, widow’s, or widower’s insurance benefit
19 shall be paid to any individual for any month under subsec-
20 tion (b), (c), (e), or (f) of section 202, and no individual shall
21 be entitled to any such benefit, unless—

22 “(1) the period of such individual’s marriage (to
23 the spouse or former spouse on the basis of whose
24 wages and self-employment income such benefit is pay-
25 able) ended before the effective date of this section;

1 “(2) such individual is under the age of 62 (and is
2 otherwise entitled to such benefit);

3 “(3) such benefit is payable without regard to age
4 and solely by reason of such individual's having a child
5 in his or her care; or

6 “(4) the application of this section to such individ-
7 ual is prevented by subsection (a), (d), or (e) (or by
8 clause (i) or (ii) of subsection (b)(2)).

9 “(h) For purposes of subsections (b)(2) and (e), an indi-
10 vidual's application for old-age or disability insurance benefits
11 shall be deemed to have been filed on the first day of the first
12 month for which (by reason of the operation of section 202(j)
13 or 223(b)) such individual is entitled to such benefits.”.

14 SEC. 3. (a) Section 202(b)(1) of the Social Security Act
15 is amended by striking out “The wife” and inserting in lieu
16 thereof “To the extent permitted by section 234(g), the
17 wife”.

18 (b) Section 202(c)(1) of such Act is amended by striking
19 out “The husband” and inserting in lieu thereof “To the
20 extent permitted by section 234(g), the husband”.

21 (c) Section 202(e)(1) of such Act is amended by striking
22 out “The widow” and inserting in lieu thereof “To the extent
23 permitted by section 234(g), the widow”.

1 (d) Section 202(f)(1) of such Act is amended by striking
2 out "The widower" and inserting in lieu thereof "To the
3 extent permitted by section 234(g), the widower".

4 (e) Section 205(c)(5) of such Act is amended—

5 (1) by striking out "or" at the end of subpara-
6 graph (I);

7 (2) by striking out the period at the end of sub-
8 paragraph (J) and inserting in lieu thereof "; or"; and

9 (3) by adding at the end thereof the following new
10 subparagraph:

11 "(K) to reflect any changes in the crediting of
12 wages and self-employment income which may be ne-
13 cessitated by section 234."

14 (f) Section 215(b) of such Act is amended by adding at
15 the end thereof the following new paragraph:

16 "(5) The determination of the wages and self-employ-
17 ment income to be credited to an individual under this sub-
18 section shall in all cases be made after the application of
19 section 234."

20 SEC. 4. (a) Except as provided in subsection (b), the
21 amendments made by this Act shall apply only with respect
22 to the crediting of wages and self-employment income to
23 years in periods of marriage (as defined in section 234(b)(2) of
24 the Social Security Act) ending after the date of the enact-

1 ment of this Act, and with respect to the payment of benefits
2 for months after December 1985.

3 (b)(1) Subsection (a) of section 234 of the Social Securi-
4 ty Act, as added by the first section of this Act, shall termi-
5 nate on December 31, 2009, and shall apply only with re-
6 spect to benefits payable for months ending on or before that
7 date.

8 (2) The appropriate committees of the House of Repre-
9 sentatives and the Senate shall conduct a study, in 1987 and
10 in each fifth year thereafter occurring prior to the date speci-
11 fied in paragraph (1), in order to determine the probable
12 impact upon beneficiaries of the termination of section 234(a)
13 of the Social Security Act on such date, giving particular
14 attention to the numbers and types of beneficiaries who are
15 likely to be harmed by such termination and the extent to
16 which their benefits are likely to be adversely affected. Such
17 committees shall promptly report the results of each such
18 study to their respective Houses, together with their recom-
19 mendations with respect to such termination.

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